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T-04257A-04-0335

1/13/2005

UTL- 15099

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1 BEFORE THE ARIZONA CORPORATION COMMISSION

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3 IN THE MATTER OF THE APPLICATION)
4 OF THE J. RICHARD COMPANY DBA LIVE)
5 WIRE PHONE COMPANY FOR A)
6 CERTIFICATE OF CONVENIENCE AND)
7 NECESSITY TO PROVIDE RESOLD LONG) DOCKET NO.
8 DISTANCE, RESOLD LOCAL EXCHANGE) T-04257A-04-0335
9 AND FACILITIES-BASED LOCAL)
10 EXCHANGE SERVICES IN THE STATE OF)
11 ARIZONA AND PETITION FOR)
12 COMPETITIVE CLASSIFICATION OF)
13 PROPOSED SERVICES.)
14

10 At: Phoenix, Arizona

11 Date: January 13, 2005

12 Filed: JAN 26 2005

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15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

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NO.

DESCRIPTION

IDENTIFIED

ADMITTED

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, in Hearing Room 1 of said
4 Commission, 1200 West Washington Street, Phoenix, Arizona,
5 commencing at 10:02 a.m. on the 13th of January, 2005.

6

7

8 BEFORE: Lyn Farmer, Chief Administrative Law Judge

9

10

APPEARANCES:

11

12 For the Arizona Corporation Commission:

13

Ms. Maureen A. Scott
Staff Attorney, Legal Division
1200 West Washington Street
Phoenix, Arizona 85007-2927

14

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16

For the Applicant:

17

LEWIS AND ROCA
By Mr. Thomas H. Campbell
40 N. Central Avenue
Phoenix, Arizona 85004

18

19

20

21 ALSO PRESENT: Greg Garlick, Administrative Law Judge

22

23

24

JODY L. LENSCHOW, RMR, CRR
Certified Court Reporter
Certificate No. 50192

25

1 CALJ FARMER: Let's go on the record.

2 Good morning and welcome to the Arizona
3 Corporation Commission. We are here this morning for a
4 hearing in the matter of the application of The J. Richard
5 Company doing business as Live Wire Phone Company for a
6 certificate of convenience and necessity to provide resold
7 long distance, resold local exchange and facilities-based
8 local exchange telecommunications services. The docket
9 number is T-04257A-04-0335.

10 My name is Lyn Farmer, and I'm the presiding
11 administrative law judge. Sitting at the bench with me
12 this morning is one of our new ALJ's, Greg Garlick. He'll
13 be observing.

14 At this time I would like to take appearances
15 of counsel. Let's start with the applicant.

16 MR. CAMPBELL: Thank you, Your Honor. Tom
17 Campbell of the law firm of Lewis and Roca on behalf of
18 the applicant.

19 CALJ FARMER: And Staff.

20 MS. SCOTT: Maureen Scott on behalf of
21 Commission Staff.

22 CALJ FARMER: Are there any procedural matters
23 that we need to address, or do the parties want to make
24 opening statements?

25 MR. CAMPBELL: I don't think there are any

1 procedural matters that I know of, and I do not need to
2 make an opening statement.

3 MS. SCOTT: I am not aware of any procedural
4 matters either, and we'll waive our opening statement.

5 CALJ FARMER: Okay. That's fine then. Is the
6 applicant prepared to call your witness?

7 MR. CAMPBELL: We are, Your Honor.

8

9

JAMES RICHARD BEAVER

10 called as a witness on behalf of Applicant, having been
11 first duly sworn by the Certified Court Reporter, was
12 examined and testified as follows:

13

14 CALJ FARMER: Sir, if you would make sure,
15 there's a button on your microphone and push it. It turns
16 green and that means it's live.

17 THE WITNESS: Thanks.

18

19

DIRECT EXAMINATION

20

21 BY MR. CAMPBELL:

22 Q. Would you please state your full name and
23 business address for the record?

24 A. My full name is James Richard Beaver. Our
25 business address is 4607 East Molly Lane, Cave Creek,

1 Arizona, 85331.

2 Q. And, Mr. Beaver, what is your position with
3 the applicant?

4 A. I am a member and executive vice president.

5 Q. Mr. Beaver, I have put in front of you two
6 documents that have been marked for identification as
7 Exhibits A-1 and A-2.

8 MR. CAMPBELL: And, Your Honor, I think I've
9 left a copy marked accordingly for you.

10 BY MR. CAMPBELL:

11 Q. A-1 is an Arizona Corporation Commission
12 application that was failed on May 3, and A-2 is an
13 Arizona Corporation Commission application for a CC&N that
14 was filed on June 9.

15 Do you have those in front of you?

16 Mr. Beaver, do you have those?

17 A. Yes, I do.

18 Q. And are you familiar with both of those
19 applications?

20 A. Yes, I am.

21 Q. Did you prepare or supervise the preparation
22 of these documents?

23 A. Yes, I did.

24 Q. Can you explain why there's a second
25 application?

1 A. The reason for the second application is
2 because when we filed Exhibit A-1, we were under the
3 assumption that we were going to be a reseller.
4 Exhibit A-2 is now a facilities-based company. That was
5 the main reason for the change.

6 Q. And is the information contained in both those
7 applications true and correct to the best of your
8 knowledge?

9 A. Yes, it is.

10 MR. CAMPBELL: Your Honor, I would move the
11 admission of A-1 and A-2.

12 CALJ FARMER: Any objection?

13 MS. SCOTT: No objections.

14 CALJ FARMER: Exhibits A-1 and A-2 are
15 admitted.

16 BY MR. CAMPBELL:

17 Q. Mr. Beaver, have you reviewed the Staff report
18 in this matter that's dated November 26, 2004?

19 A. Yes, I have.

20 Q. Does the applicant have any objections or any
21 disputes with that Staff report?

22 A. No, we don't. The only thing that we would
23 like to bring up is referring to the bond issue. The bond
24 is not a problem to get in place. What we would like to
25 do is move the seasonable time from 30 days down to

1 10 days, possibly.

2 Q. And simply for purposes of the record, and I
3 know the Staff will probably put the Staff report into
4 evidence, but on Page 12 of the Staff report, on what's
5 listed as Paragraph 2b, which I think is kind of a
6 conclusion, it indicates that the applicant needs to
7 docket proof of the performance bond within 365 days of
8 the effective date of the order in this matter or 30 days
9 prior to the provision of service, whichever comes first.

10 And, Mr. Beaver, I take it that 30 days you
11 would like reduced to 10; is that correct?

12 A. That's correct.

13 Q. And why is that, Mr. Beaver?

14 A. We're ready to go. It seems like it's taken a
15 long time to get through the process, and we would just
16 like to be able to get going as soon as possible, so long
17 as our bond is received favorably.

18 Q. And I take it you raised this issue with the
19 Staff, and they'll be prepared to respond; is that your
20 understanding?

21 A. That's correct.

22 Q. Anything else about the Staff report that you
23 have any objections to, or are you willing to accept
24 everything else in the Staff report?

25 A. Everything else is fine.

1 Q. Could you take just a moment and briefly
2 describe your business plan for the administrative law
3 judge?

4 A. Our business plan, we're going to be a
5 telephone company, and our business plan, I guess you
6 would say, is unique. We're primarily going after a
7 prepaid market; specifically, I guess you would say, a
8 lower socioeconomic market.

9 What we would like to do is, we would like to
10 provide them with home phone service. Right now there is,
11 from what my partner and I have found from market
12 research, is probably about 8 to 10 percent of the
13 population is without a telephone service, primarily
14 because they may have a collection with Cox or Qwest and
15 can't get a phone.

16 So what we would like to do is, we would like
17 to market our service on a prepaid basis to them. What
18 would probably be unique about our business would be our
19 marketing. The way that we're going to go about doing
20 business is, we're going to set up agents. An agent may
21 be a check cashing store, a mom-and-pop facility store, a
22 rent to own store, a thrift store. This is where we find
23 that most of our clientele traffics in general, and we
24 would set the store up as an agent, provide them with
25 marketing information so that they could solicit the

1 customers, and we would train them and effectively show
2 them how our business model works.

3 The customer, the end user, would come in,
4 fill out the application with the agent. The agent then
5 would collect the monies due for the first month up front.
6 The agent would then, in turn, fax the application to our
7 office, where it would be provisioned through Qwest, and
8 we would turn the phone on at their home in a matter of
9 days.

10 And so the cycle would continue. We would
11 send an invoice to the customer, and they would continue
12 and go back and pay every month to an agent. So it would
13 be good for the agent; they would have business coming in
14 on a monthly basis, and we'll pay them a commission, also.

15 Q. And, Mr. Beaver, you'll be, in a sense, using
16 Qwest unbundled elements to provide the service; is that
17 right?

18 A. Correct.

19 Q. And you've entered into an interconnection
20 agreement with Qwest; is that correct?

21 A. Yes, we have.

22 MR. CAMPBELL: I have no further questions for
23 the witness. He's available for cross-examination.

24 CALJ FARMER: Staff?

25 THE WITNESS: Yes, thank you. Good morning,

1 Mr. Beaver.

2 CALJ FARMER: Ms. Scott, would you pull the
3 microphone a little closer? I'm having trouble hearing.

4

5 CROSS-EXAMINATION

6

7 BY MS. SCOTT:

8 Q. Good morning.

9 A. Good morning.

10 Q. I have a few questions for you this morning.

11 In your application you're requesting

12 statewide authority --

13 A. Yes.

14 Q. -- to provide service; is that correct?

15 A. That's correct.

16 Q. Where do you intend to actually provide
17 service in the state at this time?

18 A. Primarily, we're going to start in Phoenix,
19 and we're going to try and stay within the city, primarily
20 because we want to use the UNE-P product, the unbundled
21 product starting off, because it's a little bit cheaper
22 than resale. So primarily we're going to be in the
23 Phoenix area.

24 Q. So your intent would be at this time to
25 provide service within Qwest's local exchange area; is

1 that correct?

2 A. Correct. That's correct.

3 Q. Do you intend to provide service in any local
4 exchange area of any other ILEC in Phoenix or Tucson?

5 A. I'm not completely familiar with -- I do know
6 that there are other ILECs out there, but I'm not
7 completely familiar with them. Right now the only one
8 that we're doing business with will be Qwest, and so
9 primarily, I believe, that we'll stay within Qwest
10 territories.

11 Q. And how about unserved areas of the state; is
12 it your intent to offer service in any unserved areas?

13 A. Not necessarily. I really don't think that
14 we're going in that direction. I think that what we're
15 going to do is, we're primarily going to stay where Qwest
16 is doing business.

17 Q. And is it fair to say that's because you don't
18 intend to deploy any facilities yourself, but intend to
19 utilize Qwest facilities?

20 A. That's correct. We have no facilities.

21 Q. I have a few questions that I would like to
22 ask you then about the interconnection agreement that
23 you've entered into with Qwest.

24 A. Okay.

25 Q. And if I could, I want to show you what I've

1 marked as Exhibit S-2.

2 Do you recognize this document, what I have
3 marked as S-2?

4 A. Yes.

5 Q. Okay. And can you tell me what this is?

6 A. This is the Triennial Review Order, the
7 USTA II agreement.

8 Q. And is this a copy of the agreement that you
9 entered into with Qwest Corporation; I should say a copy
10 of the amendment to your interconnection agreement?

11 A. I believe it is, yes.

12 Yes, it is.

13 Q. Okay. And the initial document which is
14 attached to the agreement is a letter from Norman G.
15 Curtright filing the agreement with the Commission,
16 correct?

17 A. Correct.

18 Q. I would also at this time like to show you
19 what I've marked as Exhibit S-3.

20 And, Mr. Beaver, do you recognize what's
21 marked as Exhibit S-3?

22 A. Yes.

23 Q. And Exhibit S-3 is a letter to the president
24 of your company and Mr. Curtright regarding Staff's
25 concerns with your amendment or Exhibit S-2; is that

1 correct?

2 A. That's correct.

3 Q. And it's your understanding that Staff's
4 concerns relate to Page 2 of the amendment; is that
5 correct?

6 A. That's correct.

7 Q. And specifically IIB of the amendment, the
8 last sentence of that paragraph, correct?

9 A. Let me look at it.

10 Q. Are you there?

11 A. Yes, I am.

12 Q. And that states, and if I could quote the
13 relevant part into the record, that the conditions
14 established by the FCC -- or let me start with the line
15 above that.

16 "...the parties agree to comply with said
17 order or decision, including any transitional rates,
18 terms, and conditions established by the FCC, which will
19 be made automatically applicable to this Agreement
20 immediately upon its effectiveness without further need
21 for amendment to this agreement."

22 And you understand, correct, that it is
23 Staff's position that any change to an interconnection
24 agreement must be codified and filed with the State
25 Commission?

1 A. Yes.

2 Q. And it's your understanding, also, as an
3 applicant for a CC&N in Arizona, that you agree to comply
4 with all rules and regulations of the Commission?

5 A. Yes.

6 Q. And is it your intent to file an amended
7 agreement with the Commission which would provide that you
8 would file all amendments to your agreement in writing
9 with the Commission for approval?

10 A. Yes.

11 MS. SCOTT: I would move for the admission of
12 both S-2 and S-3 into the record.

13 CALJ FARMER: Before we do that, could you
14 restate your question? I'm trying to write this down, and
15 I'm not sure if I'm going to have the transcript by the
16 time I'm writing the recommended order; and you said, was
17 it your intent to file an amended agreement with the
18 Commission that --

19 MS. SCOTT: -- that would provide that all
20 amendments to your interconnection agreement will be
21 codified in writing and filed with the Commission for
22 approval.

23 THE WITNESS: And my answer was yes.

24 Thank you for catching this, Maureen.

25 CALJ FARMER: Okay, thank you. And any

1 objection to S-2 or S-3?

2 MR. CAMPBELL: No.

3 CALJ FARMER: Exhibits S-2 and S-3 are
4 admitted.

5 BY MS. SCOTT:

6 Q. I have one more exhibit here relating to
7 another interconnection agreement matter which I would
8 like to hand out, and this I have marked as Exhibit S-4.

9 Mr. Beaver, have you seen -- well, first of
10 all, let me state the Exhibit S-4 consists of a letter to
11 Mr. Matt Rowell from David L. Ziegler; is that correct?

12 A. Yes.

13 Q. And it's regarding the Qwest master services
14 agreement with The J. Richard Company or Live Wire Phone
15 Company, correct?

16 A. Correct.

17 Q. And have you seen this letter before?

18 A. Let me look at it real quick.

19 I don't know if I've seen the letter. I am
20 very familiar -- I'm familiar with the Qwest master
21 services agreement.

22 Q. And that master services agreement is attached
23 to this letter, correct?

24 A. Right.

25 Q. Is it your understanding that Staff believes

1 that this is an interconnection agreement which should be
2 filed with the Commission for approval?

3 A. Yes.

4 Q. And has Qwest or J. Richard Company filed this
5 as an interconnection agreement for approval?

6 A. Yes. The QPP master services agreement, yes.

7 Q. Is that what this letter indicates?

8 CALJ FARMER: Sir, you can take as much time
9 as you need to read that letter, if you need to.

10 MR. CAMPBELL: Maureen, you might want to
11 clarify what his intention might be in this filing versus
12 their intention.

13 THE WITNESS: Okay.

14 BY MS. SCOTT:

15 Q. Would you accept my statement subject to check
16 that Qwest has not filed this agreement with the
17 Commission as an interconnection agreement for approval?

18 A. Yes.

19 Q. Has The J. Richard Company filed this
20 interconnection -- or this agreement with the Commission
21 for approval?

22 A. Well, we filed a basic interconnection
23 agreement with Qwest, and we also signed all the documents
24 for the QPP agreement, which is this. It was my
25 understanding that Qwest was going to file both agreements

1 with the Corporation Commission.

2 Q. And an examination of this letter, is it
3 correct, would reveal that Qwest did file one agreement
4 with the Commission for approval, but this agreement
5 that's attached to this letter, which is the QPP master
6 services agreement, it filed for informational purposes
7 only; is that correct --

8 A. That's correct.

9 Q. -- from a reading of this letter? Okay.
10 And if the Commission ultimately rules in some
11 proceedings before it that the QPP master services
12 agreement is, in fact, an interconnection agreement, is it
13 your position that you would file this agreement for
14 approval with the Commission?

15 A. Yes, I would.

16 Q. Okay. I have one last question for you, and
17 if I could refer you to the Staff report in this matter.

18 Mr. Beaver, beginning on Page 10 of the Staff
19 report, there's a series of recommendations that the Staff
20 makes. Are you in agreement with all of the Staff
21 recommendations --

22 A. Yes, I am.

23 Q. -- in this report?

24 A. Uh-huh. I am in agreement.

25 MS. SCOTT: Okay. Thank you. I have no

1 further questions.

2 MR. CAMPBELL: May I just have one redirect?

3 CALJ FARMER: Yes. I might have a few
4 questions for him. Do you want to wait for me to ask
5 first?

6 MR. CAMPBELL: I just wanted to clarify that
7 last question, if I could, just for the record.

8 CALJ FARMER: Sure.

9

10 REDIRECT EXAMINATION

11

12 BY MR. CAMPBELL:

13 Q. And that is, Mr. Beaver, when you said you're
14 in agreement with all of the recommendations in
15 Section 6.1, that is with the exception of the 30-day
16 filing requirement for the bond; is that correct?

17 A. That's correct. Thank you.

18 MR. CAMPBELL: Thank you, Your Honor.

19

20 EXAMINATION

21

22 BY CALJ FARMER:

23 Q. Mr. Beaver, can you explain your experience in
24 the telecommunication services industry?

25 A. My personal experience has primarily been with

1 Triarch Communications in my hometown where I grew up. My
2 best friend started this business. His partner is an
3 attorney, Myrt Hales. He worked for another CLEC for a
4 matter of time and was their exclusive marketing company
5 for them, which was, in effect, bought out, and they
6 started their own company.

7 I followed James' company. His name is James
8 DuPont. He's on our board of directors. I followed his
9 company all the way through as far as from inception, all
10 the hearings and proceedings that he had to go through in
11 the State of Louisiana; also followed as far as setting up
12 his office. I went and I made probably eight or ten
13 visits in the last year and a half, two years.

14 Primarily what I was there for is to learn how
15 his office functioned, to see what was involved in
16 provisioning orders; and mainly I was there to observe his
17 marketing practice, as far as setting up agents, and when
18 I would go back, that's primarily what I would do after
19 spending time in the office, was to go and set up agents
20 and see how his business flowed. So that's where my
21 experience lies is with a CLEC in Louisiana.

22 Q. Your explanation about how you intend to
23 provide service through prepaid using agents --

24 A. Correct.

25 Q. -- does that mean that instead of mailing

1 bills to customers, they need to visit the location every
2 month and make a payment, or how does that work?

3 A. Well, when they initially go in and fill out
4 an application, they pick which service they would like to
5 have. At that time they would pay the agent the monies
6 for the month. So in effect, the monies are prepaid up
7 front.

8 Subsequently, our company or a billing company
9 that we'll use will mail the customer a new invoice. When
10 he gets the invoice, he will take the invoice back to the
11 agent, pay the agent for the next month proceeding. So it
12 becomes a cycle. So the customer always pays the bill at
13 the agent. The agent likes it because it's driving
14 business into his little business, and we pay him a
15 commission.

16 Q. Do you understand that the Commission has
17 rules about disconnection of service?

18 A. Yes.

19 Q. And you agree to follow those rules?

20 A. We agree.

21 Q. I believe earlier you testified that you will
22 not have facilities or you do not currently have
23 facilities in Arizona?

24 A. We do not currently have any facilities.

25 Q. And do you intend in the future to have

1 facilities?

2 A. That's something that I really don't know how
3 to answer. It depends on how the market conditions go.
4 The growth and profitability of our company probably would
5 relegate which direction we're going to go with that.

6 Q. Staff indicates that you submitted a fair
7 value rate base of 5,000. Can you explain what that is?

8 A. From what I understand, that was the amount of
9 assets that we have in the business starting off. Is that
10 right? I have to look at it.

11 Q. Okay. The Staff report says that you have
12 completed Qwest's initial training course for wholesale
13 customers.

14 A. Right.

15 Q. Can you explain what that is; and, also, it
16 says you have plans for taking other Qwest classes?

17 A. Right. To do business with Qwest, they have a
18 series of classes that we have to go through. The first
19 one, which we took, I believe it was, in April of '04, was
20 Qwest 101 on doing business with Qwest; and it was
21 primarily an overview as far as provisioning billing, how
22 to do business with Qwest, what does Qwest expect from us
23 as a CLEC.

24 We just recently, the first of this year, flew
25 in a trainer from Qwest. We flew him in from Des Moines,

1 where he spent two days with us, primarily with our wives,
2 to make sure that they understood how to provision with
3 Qwest. It's basically a web-based system that we go on
4 and provision their phone order for the customers. There
5 are other on-line classes that we're in the process of
6 taking, also.

7 Q. You said with your wives. Are they going to
8 be involved in the business, too?

9 A. Yes. Yeah. They're the brains of the
10 business.

11 Q. Are you familiar with the Commission slamming
12 and cramming rules?

13 A. Vaguely.

14 Q. Will you make sure that all your agents are
15 familiar with those rules?

16 A. Yes. One other thing I just want to say about
17 that; the way that we pay our agents, there's going to be
18 no motivation for the agent to upsell the product. So
19 whatever it is that the customer picks out, the agent will
20 receive the commission whether it's the smallest or the
21 greatest dollar amount in phone value. So there's going
22 to be no benefit for the agent to upsell.

23 Q. And that addresses the cramming part. The
24 slamming part, though, is there's potentially an incentive
25 there, that I think you need to make the agents aware of

1 the rules about that.

2 A. Okay.

3 Q. Staff counsel asked you some questions about
4 where you're intending to provide service, and you said
5 that primarily it will be in the Qwest service area, but
6 you still want a statewide certificate; is that correct?

7 A. That's correct.

8 Q. I know it's in the Staff report, but I would
9 like to ask you, also, the name Live Wire, as maybe you've
10 learned, has also shown up in another applicant's CC&N
11 request at the Commission, and I just want you to state
12 for the record whether you have any association with that
13 company or any of those --

14 A. We have no association with them. It was by
15 accident, I guess you would say, that we picked an
16 infamous name. Our families got together and by
17 democratic process came up with the name Live Wire, and
18 once we had filed, we soon found out that it was infamous.

19 Q. And clarify for me the name of your company
20 and how you're going to market it. Is it correct that the
21 name of the applicant is The J. Richard Company, LLC doing
22 business as Live Wire Phone Company?

23 A. Correct.

24 Q. And that is who the CC&N will be held by?

25 A. Correct. When we market the product, it will

1 be known as Live Wire.

2 Q. And going to the questions also asked by Staff
3 counsel, the Exhibit S-4 that Staff admitted, do you
4 understand that there is a dispute between -- or
5 disagreement between Staff and Qwest about whether these
6 documents need to be approved by the Commission?

7 A. I was under the understanding that they needed
8 to be approved by the Commission. It was my understanding
9 from Qwest that our interconnection agreement, along with
10 the QPP agreement, would be submitted for approval by
11 Staff.

12 Q. And I think what Qwest has done, based upon my
13 just looking at these briefly, is that they've submitted
14 what they call the interconnection agreement for approval,
15 and they've submitted the master services agreement, but
16 they do not contend that that's an interconnection
17 agreement that needs to be approved by the Commission.

18 So whatever the Commission decides about
19 whether that needs to be approved or not, is Live Wire
20 willing to abide by that?

21 A. Yes, we are.

22 Q. Thank you.

23 And, finally, going to your request to have
24 the performance bond filed at least 10 days prior to
25 providing service, is that because you expect to be able

1 to provide service in a shorter time frame than 30 days
2 from the date the Commission would issue a decision in
3 this matter?

4 A. Primarily. To me, it seems like it's been a
5 long process, and a lot of it I know has been because
6 there have been a lot of changes. We have had the
7 competitive study that was new; we had our name, which has
8 always been an issue; and, quite frankly, we would like to
9 get going. My wife has been a school teacher, and she's
10 not teaching this year because we were hoping to be going
11 by the fall. So we would like to get going as soon as
12 possible.

13 CALJ FARMER: Thank you.

14 Any further questions for this witness?

15 MS. SCOTT: Your Honor, I have one more
16 question.

17

18 RECROSS-EXAMINATION

19

20 BY MS. SCOTT:

21 Q. And that regards your tariffs.

22 Have you filed proposed tariffs for your
23 application?

24 A. Yes, we have. Our tariff was filed at the
25 same time we filed our CC&N.

1 Q. Okay. And there will be no changes to those
2 tariffs?

3 A. There will be no changes to the tariff.

4 Q. Okay.

5 MS. SCOTT: One other thing, Your Honor. I'm
6 not sure if I moved for admission of S-4. Could we check
7 that?

8 CALJ FARMER: Are there any objections to
9 S-4?

10 MR. CAMPBELL: No.

11 CALJ FARMER: S-4 is admitted.

12 MS. SCOTT: Thank you.

13 CALJ FARMER: Anything further for this
14 witness?

15 (No response.)

16 CALJ FARMER: Thank you, sir, for your
17 testimony today.

18 Does that conclude the witnesses for the
19 applicant?

20 MR. CAMPBELL: That concludes the applicant's
21 witnesses, Your Honor.

22 CALJ FARMER: Thank you.

23 Is Staff ready to call your witness?

24 THE WITNESS: Yes. Staff calls Adam
25 Lebrecht.

1 ADAM LEBRECHT,
2 called as a witness on behalf of Staff, having been first
3 duly sworn by the Certified Court Reporter, was examined
4 and testified as follows:

5

6 DIRECT EXAMINATION

7

8 BY MS. SCOTT:

9 Q. Good morning, Mr. Lebrecht.

10 A. Good morning.

11 Q. Could you please state your name and business
12 address for the record?

13 A. My name is Adam Lebrecht. My last name is
14 spelled L-E-B-R-E-C-H-T. My business address is 1200 West
15 Washington Street, Phoenix, Arizona, 85007.

16 Q. And, Mr. Lebrecht, by whom are you employed
17 and in what capacity?

18 A. I'm employed by the Arizona Corporation
19 Commission, and I currently have the title of Executive
20 Consultant I.

21 Q. And as part of your responsibilities as
22 Executive Consultant I, do you review applications for
23 CC&Ns submitted by companies to provide telecommunications
24 services in the state of Arizona?

25 A. I do.

1 Q. And in the course of your responsibilities,
2 did you receive and review the application of J. Richard
3 Company for a certificate of convenience and necessity to
4 provide resold long distance and resold local exchange
5 facilities?

6 A. I did.

7 Q. And you also received and reviewed the
8 amendment to their application to provide facilities-based
9 local exchange service?

10 A. Yes.

11 Q. And I'm handing you what I've marked as
12 Exhibit S-1.

13 Mr. Lebrecht, do you recognize Exhibit S-1?

14 A. Yes, I do.

15 Q. And can you identify this document?

16 A. This is the Staff report which I wrote
17 concerning The J. Richard Company's application to provide
18 resold long distance, resold local exchange and
19 facilities-based local exchange services in Arizona.

20 Q. Do you have any corrections that you would
21 like to make to the report at this time?

22 A. I do not.

23 Q. Do you have any additions or anything else you
24 would like to make?

25 A. The only thing that I could bring up would be

1 the previously discussed change from 30 days to 10 days on
2 the performance bond. I believe that's already been
3 discussed.

4 Q. Okay. And that appears, I believe, on Page 12
5 of your report?

6 A. Yes. Page 12, Section 2b, the second line,
7 "an order in this matter or 30 days" would be replaced
8 with "10 days."

9 Q. And that is because the applicant has asked
10 for that amendment, correct?

11 A. Yes.

12 Q. And is Staff agreeable to that?

13 A. Staff is agreeable to this.

14 MS. SCOTT: Your Honor, I would move for the
15 admission of Exhibit S-1.

16 CALJ FARMER: Any objection?

17 MR. CAMPBELL: No.

18 CALJ FARMER: S-1 is admitted.

19 BY MS. SCOTT:

20 Q. Mr. Lebrecht, could you give a brief summary
21 of the findings in your report and your recommendations?

22 A. In this report I found that The J. Richard
23 Company d/b/a Live Wire Phone Company does possess the
24 criteria necessary to provide the services it requested in
25 its application.

1 I have put together several recommendations,
2 which involve interconnection agreements, bond
3 responsibilities, and things of that nature, AUSF or,
4 excuse me, Arizona Universal Service Fund mechanisms, as
5 well as other requirements which Staff believes are
6 necessary to provide these services.

7 MS. SCOTT: Your Honor, I have no further
8 questions. He's available for cross-examination.

9 CALJ FARMER: Thank you.

10 Mr. Campbell?

11 MR. CAMPBELL: No questions, Your Honor.

12 CALJ FARMER: Before I ask you a question, I'm
13 going to need to clarify with your counsel. When you were
14 asking the applicant's witness the questions about S-4,
15 were you intending that the Commission make a
16 determination in this docket whether that master services
17 agreement is an interconnection agreement?

18 MS. SCOTT: No, Your Honor. I was just trying
19 to get clarification from the witness that he understood
20 that there was a dispute pending with respect to that and
21 clarification that depending upon how the Commission
22 ruled, if they ruled it was an interconnection agreement,
23 that they would agree to file that with the Commission for
24 approval.

25 CALJ FARMER: And you don't expect that ruling

1 to be in the context of this docket?

2 MS. SCOTT: Not with respect to S-4, no.

3 CALJ FARMER: Okay. Because I was going to
4 have some questions for him if you did.

5

6 EXAMINATION

7

8 BY CALJ FARMER:

9 Q. Mr. Lebrecht, you heard the description by the
10 applicant's witness today of how they intend to market and
11 provide service to their customers?

12 A. Yes.

13 Q. And was that your understanding of how this
14 company was going to be providing service?

15 A. Yes, basically.

16 Q. And it's a little bit unusual from the way
17 other facilities-based customers provide service, isn't
18 it?

19 A. That is correct.

20 Q. And are you confident that they can meet all
21 the Commission's service quality and rules about
22 disconnection and slamming and cramming rules?

23 A. Staff believes that the applicant can abide by
24 these rules.

25 Q. So there's nothing in their business plan that

1 would pose a problem with compliance with any of those?

2 A. Not that I saw.

3 Q. Thank you.

4 And the amount of bond that you have
5 recommended is the standard 135,000 for all three kinds of
6 service that they're going to be authorized to provide?

7 A. That is correct. It's an aggregate for the
8 three services.

9 CALJ FARMER: I don't think I have any more
10 questions.

11 Are there any more questions for this witness?

12 MR. CAMPBELL: No.

13 MS. SCOTT: No.

14 CALJ FARMER: Okay. Thank you, sir, for your
15 testimony.

16 I believe that concludes all of the witnesses.
17 Is there anything else that anybody wants to put on the
18 record?

19 MR. CAMPBELL: No. I think as our witness
20 indicated, they're eager to get started, and anything that
21 could be done to get this on the February open meeting
22 would be much appreciated.

23 CALJ FARMER: Now that you mention that, if
24 the applicant would be willing to waive its 10 days for
25 filing exceptions, I think that might be helpful. I'm not

1 sure that I'm going to have the transcript before the
2 deadline for issuing the recommended order.

3 MR. CAMPBELL: We will waive the 10-day
4 exception time.

5 CALJ FARMER: Okay. Thank you.

6 Anything further from Staff?

7 MS. SCOTT: No, Your Honor.

8 CALJ FARMER: Thank you all for your testimony
9 and participation today.

10 MR. CAMPBELL: Thank you, Your Honor.

11 MS. SCOTT: Thank you, Your Honor.

12 (The hearing concluded at 10:44 a.m.)

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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)
4
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7 I, JODY L. LENSCHOW, Certified Court Reporter
8 No. 50192 for the State of Arizona, do hereby certify that
9 the foregoing printed pages constitute a full, true and
10 accurate transcript of the proceedings had in the
11 foregoing matter, all done to the best of my skill and
12 ability.

13 WITNESS my hand this 25th day of January, 2005.
14
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16

17
18 
19 JODY L. LENSCHOW, RMR, CRR
20 Certified Court Reporter
21 Certificate No. 50192
22
23
24
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